

House Study Bill 81

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON PUBLIC
SAFETY BILL BY CHAIRPERSON
BAUDLER)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to possession of an alcoholic beverage by a
2 person under legal age.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1406YC 80
5 jm/pj/5

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1 1 Section 1. Section 123.47, subsection 2, Code 2003, is
1 2 amended by adding the following new unnumbered paragraph:
1 3 NEW UNNUMBERED PARAGRAPH. If a peace officer as defined in
1 4 section 801.4 has reasonable grounds to believe a person is in
1 5 violation of this subsection, the peace officer may require
1 6 the person to provide a sample of the person's breath using a
1 7 device approved by the commissioner of public safety.
1 8 Notwithstanding section 321J.5, the results of a test
1 9 performed pursuant to this subsection or a refusal to take the
1 10 test is admissible in any court proceeding upon proof of a
1 11 proper foundation. A positive test result from a device which
1 12 is considered a preliminary screening device or a person's
1 13 refusal to take a test requested under this paragraph may be
1 14 used to infer that the person taking or refusing the test
1 15 possessed or controlled an alcoholic beverage, beer, or wine
1 16 in violation of this subsection.

EXPLANATION

1 17 This bill relates to possession of an alcoholic beverage by
1 18 a person under legal age.
1 19 The bill provides that if a peace officer has reasonable
1 20 grounds to believe a person under legal age has possessed an
1 21 alcoholic beverage, the peace officer may administer a
1 22 preliminary breath test (PBT) to determine if the person has
1 23 possessed an alcoholic beverage. The bill provides that the
1 24 results of the test or a refusal to take the test is
1 25 admissible in any court proceeding upon proof of a proper
1 26 foundation. A positive PBT or a refusal to take the test
1 27 under the bill may be used to infer that a person possessed an
1 28 alcoholic beverage in violation of Code section 124.47.
1 29 Possession by a person under legal age is a simple
1 30 misdemeanor, punishable by a fine of \$100 for a first offense
1 31 and suspension of the driver's license of the person and a
1 32 \$200 fine for a second or subsequent offense. A simple
1 33 misdemeanor is punishable by confinement for no more than 30
1 34 days.

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